
REQUEST FOR PROPOSALS

For

Real Estate Title and Closing Services

RFP NUMBER: 32107- 007.13

STATE OF TENNESSEE

Department of General Services



Release Date: January 7, 2014



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1. INTRODUCTION

The State of Tennessee, Department of General Service's State of Tennessee Real Estate Asset Management ("STREAM"), hereinafter referred to as the "State," has issued this Request for Proposals ("RFP") to define minimum service requirements; solicit proposals; detail proposal requirements; and, outline the State's process for evaluating proposals and selecting a contractor to provide the needed service.

Through this RFP, the State seeks to buy the best services at the most favorable, competitive prices and to give ALL qualified businesses, including those that are owned by minorities, women, Tennessee service-disabled veterans, and small business enterprises, opportunity to do business with the State as contractors and subcontractors.

The State intends to secure a contract for Real Estate Closing and Title Services for the Eastern, Middle and Western Grand Divisions of the State. The State plans to meet this need by awarding three (3) contracts; one for each of the Grand Divisions.

1.1. Statement of Procurement Purpose

The Respondents to this RFP may propose for one (1), two (2), or all three (3) Grand Divisions and be awarded multiple contracts. The Respondent must have an established office which will serve as the managing office for the services provided in the Grand Division. It is the preference of the State that the Respondent have an established office or a subcontractor with an established office in at least one county within each of the Grand Divisions being proposed on. For an office to be considered established, the office must have been in existence with at least two (2) employees staffing such office not less than thirty (30) hours per week per employee prior to the date of the Proposal submitted in response to this RFP. One established office within the Grand Division must serve as the managing office for the services provided in that Grand Division. (See RFP Attachment 6.7, pro forma Contract Section A.5).

To propose on the **Eastern Grand Division**, the Respondent must have an established office in at least one of the following counties:

Anderson, Bledsoe, Blount, Bradley, Campbell, Carter, Claiborne, Cooke, Cumberland, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sevier, Sullivan, Unicoi, Union, and Washington

To propose on the **Middle Grand Division**, the Respondent must have an established office in at least one of the following counties:

Steward, Houston, Humphreys, Perry, Wayne, Lawrence, Lewis, Hickman, Dickson, Montgomery, Robertson, Cheatham, Davidson, Williamson, Maury, Giles, Lincoln, Marshall, Moore, Bedford, Rutherford, Wilson, Sumner, Macon, Trousdale, Cannon, Coffee, Franklin, Grundy, Warren, Dekalb, Smith, Jackson, Clay, Pickett, Overton, Fentress, Putnam, White, Van Buren, and Sequatchie

To propose on the **Western Grand Division**, the Respondent must have an established office in at least one of the following counties:

Lake, Obion, Weakley, Henry, Dyer, Gibson, Carroll, Lauderdale, Crockett, Tipton, Haywood, Madison, Chester, Henderson, Benton, Decatur, Shelby, Fayette, Hardeman, McNairy, Hardin

1.2. **Scope of Service, Contract Period, & Required Terms and Conditions**

The RFP Attachment 6.7., *Pro Forma* Contract details the State's required:

- Scope of Services and Deliverables (Section A);
- Contract Period (Section B);
- Payment Terms (Section C);
- Standard Terms and Conditions (Section D); and,
- Special Terms and Conditions (Section E).

The *Pro Forma* Contract substantially represents the contract document that the successful Proposer must sign. However, Proposers may suggest alternate language to be included in the resulting Contract

1.3. **Nondiscrimination**

No person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of a Contract pursuant to this RFP or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Contractor pursuant to this RFP shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

1.4. **RFP Communications**

- 1.4.1. The State has assigned the following RFP identification number that must be referenced in all communications regarding this RFP:

RFP #32107- 007.13

- 1.4.2. **Unauthorized contact about this RFP with employees or officials of the State of Tennessee except as detailed below may result in disqualification from consideration under this procurement process.**

- 1.4.2.1. Potential proposers should direct communications relating to this RFP to the following person designated as the RFP Coordinator.

Aaron Flener
Department of General Services
312 Rosa L. Parks Avenue, 22nd Floor
Nashville, TN 37243
Phone: (615) 741-3948
Email: Aaron.Flener@tn.gov

- 1.4.2.2. Notwithstanding the foregoing, potential proposers may contact:

- a. staff of the Governor's Office of Diversity Business Enterprise for assistance available to minority-owned, women-owned, and small businesses as well as general, public information relating to this RFP; and
- b. the following individual designated by the State to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and associated federal regulations:

Pamela Fitzpatrick
Department of General Services

312 Rosa L. Parks Avenue, 22nd Floor
Nashville, TN 37243
Phone: (615) 253-2561
Email: Pamela.Fitzpatrick@tn.gov

- 1.4.3. Only the State's official, written responses and communications will be binding with regard to this RFP. The State will consider oral communications of any type to be unofficial and non-binding.
- 1.4.4. Potential proposers must ensure that the State receives all written comments, including questions and requests for clarification, no later than the Written "Questions & Comments" Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.4.5. Proposers must assume the risk of the method of dispatching any communication or proposal to the State. The State assumes no responsibility for delays or delivery failures resulting from the method of dispatch. Actual or digital "postmarking" of a communication or proposal to the State by a specified deadline date will not substitute for the State's actual receipt of a communication or proposal.
- 1.4.6. The State will convey all official responses and communications related to this RFP to the potential proposers from whom the State has received a Notice of Intent to Propose (refer to RFP Section 1.8.).
- 1.4.7. The State reserves the right to determine, at its sole discretion, the method of conveying official, written responses and communications related to this RFP. Such written communications may be transmitted by mail, hand-delivery, facsimile, electronic mail, Internet posting, or any other means deemed reasonable by the State.
- 1.4.8. The State reserves the right to determine, at its sole discretion, the appropriate and adequate responses to written comments, questions, and requests related to this RFP. The State's official, written responses will constitute an amendment of this RFP.
- 1.4.9. Any data or factual information provided by the State (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. The State will make reasonable efforts to ensure the accuracy of such data or information; however, it is within the discretion of Proposers to independently verify any information before relying thereon.

1.5. Assistance to Proposers With a Handicap or Disability

Potential proposers with a handicap or disability may receive accommodation relating to the communication of this RFP and participating in the RFP process. Potential proposers may contact the RFP Coordinator to request such reasonable accommodation no later than the Disability Accommodation Request Deadline detailed in the RFP Section 2, Schedule of Events.

1.6. Proposer Required Review & Waiver of Objections

- 1.6.1. Each potential proposer must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.7., *Pro Forma* Contract, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called "questions and comments").
- 1.6.2. Any potential proposer having questions and comments concerning this RFP must provide such in writing to the State no later than the Written "Questions & Comments" Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.6.3. Protests based on any objection shall be considered waived and invalid if the objection has not been brought to the attention of the State, in writing, by the Written "Questions & Comments" Deadline.

1.7. **Pre-Proposal Conference – There will be no Pre-Proposal Conference for this RFP. Please be sure to submit any written questions or comments by the deadline (refer to RFP Section 2. Schedule of Events)**

1.8. **Notice of Intent to Propose**

Before the Notice of Intent to Propose Deadline detailed in the RFP Section 2, Schedule of Events, potential proposers should submit to the RFP Coordinator a Notice of Intent to Propose (in the form of a simple e-mail or other written communication). Such notice should include the following information:

- the business or individual's name (as appropriate)
- a contact person's name and title
- the contact person's mailing address, telephone number, facsimile number, and e-mail address

A Notice of Intent to Propose creates no obligation and is not a prerequisite for making a proposal, however, it is necessary to ensure receipt of any RFP amendments or other notices and communications relating to this RFP.

1.9. **Proposal Deadline**

A Proposer must ensure that the State receives a proposal no later than the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events. A proposal must respond, as required, to this RFP (including its attachments) as may be amended. The State will not accept late proposals, and a Proposer's failure to submit a proposal before the deadline will result in disqualification of the proposal.

A proposal submitted in response to this RFP may be for the Eastern, Middle, or Western Grand Divisions. Please indicate on the Proposal Package Cover Sheet (RFP Attachment 6.5..) if you are proposing for one, two, or all three of the contracts. Separate Cost Proposals will need to be submitted for each of the Grand Divisions if a Proposer intends to propose for more than one of the contracts; however, only one (1) Technical Proposal needs to be submitted.

2. RFP SCHEDULE OF EVENTS

2.1. The following RFP Schedule of Events represents the State's best estimate for this RFP.

| EVENT | TIME (central time zone) | DATE (all dates are state business days) |
|---|-----------------------------|---|
| 1. State issues RFP | | January 7, 2014 |
| 2. Disability Accommodation Request Deadline | | January 9, 2014 |
| 3. Notice of Intent to Propose Deadline | | January 10, 2014 |
| 4. Written "Questions & Comments" Deadline | 2:00 pm | January 14, 2014 |
| 5. State Response to Written "Questions & Comments" | | January 17, 2014 |
| 6. Proposal Deadline | 2:00 pm | January 23, 2014 |
| 7. State Completion of Technical Proposal Evaluations | | January 30, 2014 |
| 8. State Opening & Scoring of Cost Proposals (Eastern Division) | | January 31, 2014 |
| 9. State Opening & Scoring of Cost Proposals (Middle Division) | | January 31, 2014 |
| 10. State Opening & Scoring of Cost Proposals (Western Division) | | January 31, 2014 |
| 11. State Evaluation Notice Released <u>and</u> RFP Files Opened for Public Inspection | | February 4, 2014 |
| 12. Contract Signing | | February 12, 2014 |
| 13. Contractor Contract Signature Deadline | | February 14, 2014 |

2.2. **The State reserves the right, at its sole discretion, to adjust the RFP Schedule of Events as it deems necessary.** Any adjustment of the Schedule of Events shall constitute an RFP amendment, and the State will communicate such to potential proposers from whom the State has received a Notice of Intent to Propose (refer to Section 1.8.).

3. PROPOSAL REQUIREMENTS

3.1. Proposal Form

If a Respondent intends to propose for only **one** of the contracts, a response to this RFP must consist of **two parts**:

- (1) Technical Proposal (that would apply to the Grand Division selected by the Proposer) and;
- (1) Cost Proposal (labeled with the appropriate Grand Division).

If a Respondent intends to propose for **two** of the contracts, a response to this RFP must consist of **three parts**:

- (1) Technical Proposal (that would apply to the two (2) Grand Divisions selected by the Proposer);
- (1) Cost Proposal (sealed separately and labeled with appropriate Grand Division); and
- (1) Cost Proposal (sealed separately and labeled with appropriate Grand Division).

If a Respondent intends to propose for all **three** of the contracts, a response to this RFP must consist of **four parts**:

- (1) Technical Proposal (that would apply to all three (3) Grand Divisions) and;
- (1) Cost Proposal (sealed separately and labeled with the name of the Grand Division);
- (1) Cost Proposal (sealed separately and labeled with the name of the appropriate Grand Division); and
- (1) Cost Proposal (sealed separately and labeled with the name of the appropriate Grand Division).

- 3.1.1. **Technical Proposal.** The RFP Attachment 6.2., Technical Proposal & Evaluation Guide details specific requirements for making a Technical Proposal in response to this RFP. The guide includes mandatory requirement items, general qualifications and experience items, and technical qualifications, experience, and approach items all of which must be addressed with a written response and, in some instances, additional documentation.

NOTICE: A technical proposal must not include any pricing or cost information related to the services under this RFP. If any pricing or cost information amounts related to the services under this RFP are included in any part of the technical proposal, the State may deem the proposal to be non-responsive and reject it.

- 3.1.1.1. A Proposer must use the RFP Attachment 6.2., Technical Proposal & Evaluation Guide to organize, reference, and draft the Technical Proposal by duplicating the attachment, adding appropriate proposal page numbers as required, and using the guide as a table of contents covering the Technical Proposal.
- 3.1.1.2. A proposal should be economically prepared, with emphasis on completeness and clarity. A proposal, as well as any reference material presented, must be written in English and must be written on standard 8 ½" x 11" pages (although oversize exhibits are permissible). All proposal pages must be numbered.
- 3.1.1.3. All information and documentation included in a Technical Proposal should respond to or address a specific requirement detailed in the RFP Attachment 6.2., Technical Proposal & Evaluation Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed extraneous and will not contribute to evaluations.
- 3.1.1.4. The State may determine a proposal to be non-responsive and reject it if:

- a. the Proposer fails to organize and properly reference the Technical Proposal as required by this RFP and the RFP Attachment 6.2., Technical Proposal & Evaluation Guide; or
- b. the Technical Proposal document does not appropriately respond to, address, or meet all of the requirements and proposal items detailed in the RFP Attachment 6.2., Technical Proposal & Evaluation Guide.

- 3.1.2. **Cost Proposal.** A Cost Proposal shall be recorded on an exact duplicate of the RFP Attachment 6.3., Cost Proposal & Scoring Guide.

NOTICE: If a proposer fails to submit a cost proposal exactly as required, the State may deem the proposal to be non-responsive and reject it.

- 3.1.2.1. A Proposer shall only record the proposed cost exactly as required by the RFP Attachment 6.3., Cost Proposal & Scoring Guide and shall NOT record any other rates, amounts, or information.
- 3.1.2.2. The proposed cost shall incorporate ALL costs for services under the contract for the total contract period.
- 3.1.2.3. A Proposer must sign and date the Cost Proposal.
- 3.1.2.4. A Proposer must submit the Cost Proposal to the State in a sealed package separate from the Technical proposal (as detailed in RFP Sections 3.2.3., *et seq.*).

3.2. **Proposal Delivery**

A Proposer must deliver a proposal in response to this RFP as detailed below. The State will not accept a proposal delivered by any other method.

- 3.2.1. A Proposer must ensure that both the original Technical Proposal and Cost Proposal documents meet all form and content requirements detailed within this RFP for such proposals including but not limited to required signatures.
- 3.2.2. A Proposer must submit original Technical Proposal and Cost Proposal documents and copies as specified below.

- 3.2.2.1. **One (1) original** Technical Proposal paper document labeled:

“RFP #32107- 007.13 TECHNICAL PROPOSAL ORIGINAL”

AND

Six (6) paper copies of the Technical Proposal **AND One (1)** digital document in “PDF” format properly recorded on its own otherwise blank, standard CD-R recordable disc labeled:

“RFP #32107- 007.13 TECHNICAL PROPOSAL COPY”

The digital copies should not include copies of sealed customer references, however any other discrepancy between the paper Technical Proposal document and any digital copies may result in the State rejecting the proposal as non-responsive.

- 3.2.2.2. **One (1) original** Cost Proposal paper document labeled:

“RFP #32107- 007.13 COST PROPOSAL ORIGINAL” for the “Eastern, Middle, or Western Division” FROM [PROPOSER LEGAL ENTITY NAME]”

AND

One (1) copy in the form of a digital document in “PDF” format properly recorded on a separate, blank, standard CD-R recordable disc labeled:

“RFP #32107- 007.13 COST PROPOSAL COPY”

If a Respondent is proposing for more than one contract, all cost proposals should be submitted in accordance with this section and labeled with the appropriate Grand Division.

In the event of a discrepancy between the original Cost Proposal document and the digital copy, the original, signed document will take precedence.

3.2.3. A Proposer must separate, seal, package, and label the documents and discs for delivery as follows.

3.2.3.1. The Technical Proposal original document, six (6) paper copies, and the digital document in “PDF” format properly recorded on a separate, blank, standard CD-R recordable disc must be placed in a sealed package that is clearly labeled:

“DO NOT OPEN... RFP #32107- 007.13 TECHNICAL PROPOSAL FROM [PROPOSER LEGAL ENTITY NAME]”

3.2.3.2. The Cost Proposal original document and copy disc(s) must be placed in a separate, sealed package that is clearly labeled:

“DO NOT OPEN... RFP #32107- 007.13 - for the “Eastern, Middle, or Western Division” FROM [PROPOSER LEGAL ENTITY NAME]”

3.2.3.3. The separately, sealed Technical Proposal and Cost Proposal components may be enclosed in a larger package for mailing or delivery, provided that the outermost package is clearly labeled:

“RFP #32107- 007.13 SEALED TECHNICAL PROPOSAL & SEALED COST PROPOSAL FROM [PROPOSER LEGAL ENTITY NAME]”

3.2.4. A Proposer must ensure that the State receives a proposal in response to this RFP no later than the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events at the following address:

Aaron Flener
Department of General Services, STREAM
312 Rosa L. Parks Avenue, 22nd Floor
Nashville, TN 37243

3.3. Proposal & Proposer Prohibitions

3.3.1. A proposal shall not include the Proposer’s own contract terms and conditions. If a proposal contains such terms and conditions, the State, at its sole discretion, may determine the proposal to be a non-responsive counteroffer and reject it.

3.3.2. A proposal shall not restrict the rights of the State or otherwise qualify either the offer to deliver services as required by this RFP or the Cost Proposal. If a proposal restricts the rights of the

State or otherwise qualifies either the offer to deliver services as required by this RFP or the Cost Proposal, the State, at its sole discretion, may determine the proposal to be a non-responsive counteroffer and reject it.

- 3.3.3. A proposal must not propose alternate services (*i.e.*, offer services different from those requested and required by this RFP). The State will consider a proposal of alternate services to be non-responsive and reject it.
- 3.3.4. A Cost Proposal shall not result from any collusion between Proposers. The State will reject any Cost Proposal that was not prepared independently without collusion, consultation, communication, or agreement with any other Proposer. Regardless of the time of detection, the State will consider any such actions to be grounds for proposal rejection or contract termination.
- 3.3.5. A Proposer shall not provide, for consideration in this RFP process or subsequent contract negotiations, incorrect information that the Proposer knew or should have known was materially incorrect. If the State determines that a Proposer has provided such incorrect information, the State will deem the Proposer's proposal non-responsive and reject it.
- 3.3.6. A Proposer shall not submit more than one Technical Proposal and one Cost Proposal for each Grand Division in response to this RFP. If a Proposer submits more than one Technical Proposal or more than one Cost Proposal for each Grand Division, the State will deem all of the proposals non-responsive and reject them.
- 3.3.7. Intentionally Deleted.
- 3.3.8. A Proposer must not be (and the State will not award a contract to):
 - a. an individual who is, or within the past six months has been, an employee of the State of Tennessee or who is a volunteer member of a State board or commission that votes for, lets out, overlooks, or any manner superintends the services being procured in this RFP;
 - b. a company, corporation, or any other contracting entity in which an ownership of two percent (2%) or more is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee (this will not apply either to financial interests that have been placed into a "blind trust" arrangement pursuant to which the employee does not have knowledge of the retention or disposition of such interests or to the ownership of publicly traded stocks or bonds where such ownership constitutes less than 2% of the total outstanding amount of the stocks or bonds of the issuing entity);
 - c. a company, corporation, or any other contracting entity which employs an individual who is, or within the past six months has been, an employee of the State of Tennessee in a position that would allow the direct or indirect use or disclosure of information, which was obtained through or in connection with his or her employment and not made available to the general public, for the purpose of furthering the private interest or personal profit of any person; or,
 - d. any individual, company, or other entity involved in assisting the State in the development, formulation, or drafting of this RFP or its scope of services (such person or entity being deemed by the State as having information that would afford an unfair advantage over other Proposers).

For the purposes of applying the requirements of this RFP subsection 3.3.8., the State will deem an individual to be an employee of the State of Tennessee until such time as all compensation for salary, termination pay, and annual leave has been paid, but the term "employee of the State of Tennessee" shall not include individuals performing volunteer services for the State of Tennessee.

3.4. **Proposal Errors & Revisions**

A Proposer is liable for any and all proposal errors or omissions. A Proposer will not be allowed to alter or revise proposal documents after the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events unless such is formally requested, in writing, by the State.

3.5. **Proposal Withdrawal**

A Proposer may withdraw a submitted proposal at any time before the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events by submitting a written request signed by an authorized Proposer representative. After withdrawing a proposal, a Proposer may submit another proposal at any time before the Proposal Deadline.

3.6. **Proposal of Additional Services**

If a proposal offers services in addition to those required by and described in this RFP, the State, at its sole discretion, may add such services to the contract awarded as a result of this RFP. Notwithstanding the foregoing, a Proposer must not propose any additional cost amount(s) or rate(s) for additional services. Regardless of any additional services offered in a proposal, the Proposer's Cost Proposal must only record the proposed cost as required in this RFP and must not record any other rates, amounts, or information.

NOTICE: If a Proposer fails to submit a Cost Proposal exactly as required, the State may deem the proposal non-responsive and reject it.

3.7. **Proposal Preparation Costs**

The State will not pay any costs associated with the preparation, submittal, or presentation of any proposal.

4. GENERAL CONTRACTING INFORMATION & REQUIREMENTS

4.1. RFP Amendment

The State reserves the right to amend this RFP at any time, provided that it is amended in writing. However, prior to any such amendment, the State will consider whether it would negatively impact the ability of potential proposers to meet the proposal deadline and revise the RFP Schedule of Events if deemed appropriate. If an RFP amendment is issued, the State will convey it to potential proposers who submitted a Notice of Intent to Propose (refer to RFP Section 1.8.). A proposal must respond, as required, to the final RFP (including its attachments) as may be amended.

4.2. RFP Cancellation

The State reserves the right, at its sole discretion, to cancel or to cancel and reissue this RFP in accordance with applicable laws and regulations.

4.3. State Right of Rejection

4.3.1. Subject to applicable laws and regulations, the State reserves the right to reject, at its sole discretion, any and all proposals.

4.3.2. The State may deem as non-responsive and reject any proposal that does not comply with all terms, conditions, and performance requirements of this RFP. Notwithstanding the foregoing, the State reserves the right to waive, at its sole discretion, a proposal's minor variances from full compliance with this RFP. If the State waives variances in a proposal, such waiver shall not modify the RFP requirements or excuse the Proposer from full compliance with such, and the State may hold any resulting Contractor to strict compliance with this RFP.

4.4. Assignment & Subcontracting

4.4.1. The Contractor may not subcontract, transfer, or assign any portion of the Contract awarded as a result of this RFP without prior approval of the State; provided, however, that the Contractor may subcontract with title searchers without the prior approval of the State. The State reserves the right to refuse approval, at its sole discretion, of any subcontract, transfer, or assignment.

4.4.2. Intentionally deleted.

4.4.3. Subcontractors identified within a proposal in response to this RFP will be deemed as approved by the State unless the State expressly disapproves one or more of the proposed subcontractors prior to signing the Contract. However, specific subcontractors need not be listed.

4.4.4. The Contractor resulting from this RFP may only substitute another subcontractor for a proposed subcontractor at the discretion of the State and with the State's prior, written approval.

4.4.5. Notwithstanding any State approval relating to subcontracts, the Contractor resulting from this RFP will be the prime contractor and will be responsible for all work under the Contract.

4.5. Right to Refuse Personnel

The State reserves the right to refuse, at its sole discretion and notwithstanding any prior approval, any personnel of the prime contractor or a subcontractor providing service in the performance of a contract resulting from this RFP. The State will document in writing the reason(s) for any rejection of personnel.

4.6. Insurance

At any time, the State may require the Contractor resulting from this RFP to provide a valid Certificate of Insurance indicating current insurance coverage meeting minimum requirements as may be specified by

this RFP. A failure to provide said documentation will be considered a material breach and grounds for contract termination.

4.7. Professional Licensure and Department of Revenue Registration

- 4.7.1. All persons, agencies, firms, or other entities that provide legal or financial opinions, which a Proposer provides for consideration and evaluation by the State as a part of a proposal in response to this RFP, shall be properly licensed to render such opinions.
- 4.7.2. Before the Contract resulting from this RFP is signed, the apparent successful Proposer (and Proposer employees and subcontractors, as applicable) must hold all necessary, appropriate business and professional licenses to provide service as required. The State may require any Proposer to submit evidence of proper licensure.
- 4.7.3. Before the Contract resulting from this RFP is signed, the apparent successful Proposer must be registered with the Department of Revenue for the collection of Tennessee sales and use tax. The State shall not award a contract unless the Proposer provides proof of such registration. The foregoing is a mandatory requirement of an award of a contract pursuant to this solicitation.

4.8. Disclosure of Proposal Contents

- 4.8.1. Each proposal and all materials submitted to the State in response to this RFP become the property of the State of Tennessee. Selection or rejection of a proposal does not affect this right. By submitting a proposal, a Proposer acknowledges and accepts that the full proposal contents and associated documents will become open to public inspection in accordance with the laws of the State of Tennessee.
- 4.8.2. The State will hold all proposal information, including both technical and cost information, in confidence during the evaluation process. Notwithstanding the foregoing, a list of actual Proposers submitting timely proposals may be available to the public, upon request, after technical proposals are opened.
- 4.8.3. Upon completion of proposal evaluations, indicated by public release of an Evaluation Notice, the proposals and associated materials will be open for review by the public in accordance with *Tennessee Code Annotated*, Section 10-7-504(a)(7).

4.9. Contract Approval and Contract Payments

- 4.9.1. This RFP and its Contractor selection processes do not obligate the State and do not create rights, interests, or claims of entitlement in either the Proposer with the apparent best-evaluated proposal or any other Proposer. State obligations pursuant to a contract award shall commence only after the contract is signed by the State agency head and the Contractor and after the Contract is approved by all other state officials as required by applicable laws and regulations.
- 4.9.2. No payment will be obligated or made until the relevant Contract is approved as required by applicable statutes and rules of the State of Tennessee.
 - 4.9.2.1. The State shall not be liable for payment of any type associated with the Contract resulting from this RFP (or any amendment thereof) and shall not be responsible for any work done by the Contractor, even work done in good faith and even if the Contractor is orally directed to proceed with the delivery of services, if it occurs before the Contract start date or after the Contract end date.
 - 4.9.2.2. All payments relating to this procurement will be made in accordance with the Payment Terms and Conditions of the Contract resulting from this RFP (refer to RFP Attachment 6.7., *Pro Forma* Contract, Section C).

- 4.9.2.3. If any provision of the Contract provides direct funding or reimbursement for the competitive purchase of services or items to be delivered to the State as a component of contract performance or otherwise provides for the reimbursement of specified, actual costs, the State will employ all reasonable means and will require all such documentation that it deems necessary to ensure that such purchases were competitive and costs were reasonable, necessary, and actual. The Contractor shall provide reasonable assistance and access related to such review. Further, the State shall not remit, as funding or reimbursement pursuant to such provisions, any amount(s) which it determines did not result from a reasonably competitive purchase or do not represent reasonable, necessary, and actual costs.

4.10. Contractor Performance

The Contractor engaged under a contract resulting from this RFP will be responsible for the completion of all services set out in this RFP (including attachments) as may be amended. All service is subject to inspection and evaluation by the State. The State may employ all reasonable means to ensure that service is progressing and being performed in compliance with the Contract, and the Contractor must cooperate with such efforts.

4.11. Contract Amendment

During the course of a Contract pursuant to this RFP, the State may request the Contractor to perform additional work within the general scope of the Contract and this RFP, but beyond the specified scope of service, and for which the Contractor may be compensated. In such instances, the State will provide the Contractor a written description of the additional work. The Contractor must respond to the State with a time schedule for accomplishing the additional work and a price for the additional work based on the rates included in the Contractor's proposal to this RFP. If the State and the Contractor reach an agreement regarding the work and associated compensation, such agreement must be effected by means of a Contract Amendment. Further, any such amendment requiring additional work must be signed by both the State agency head and the Contractor and must be approved by other state officials as required by applicable statutes and rules of the State of Tennessee. The Contractor must not commence additional work until the State has issued a written Contract Amendment with all required approvals.

4.12. Severability

If any provision of this RFP is declared by a court to be illegal or in conflict with any law, said decision will not affect the validity of the remaining RFP terms and provisions, and the rights and obligations of the State and Proposers will be construed and enforced as if the RFP did not contain the particular provision held to be invalid.

5. PROPOSAL EVALUATION & CONTRACT AWARD

5.1. Evaluation Categories & Maximum Points

The State will consider qualifications, experience, technical approach, and cost in the evaluation of proposals and will award points in each of the categories detailed below (up to the maximum evaluation points indicated) to each apparently responsive proposal.

The Contractor selection will be a two-part process: Technical Proposal and Cost Proposal.

Part One: There will be qualification of all technical proposals. The written proposal must attain a combined score of forty-nine (49) or above in order for a proposal to be qualified. The proposal receiving the highest score will be allocated the maximum score of seventy (70) points. The proposal score will be used in the following formula to determine the points a Proposer will receive for the proposal.

$$\frac{\text{Score for Proposal Being Evaluated}}{\text{Highest Scoring Proposal}} \times \text{Maximum Technical Points} = \text{Technical Proposal Points}$$

(Please note: there will be only one Technical Evaluation Score even if a Respondent submits a Cost Proposal on more than one of the Grand Divisions).

Part Two: The Eastern Division Cost Proposals will only be considered for those Technical Proposals that have achieved qualified status in Part One. The Cost Proposal containing the lowest cost will receive the maximum score of thirty (30) points. The proposed cost will be used in the following formula to determine the points a Proposer will receive for the Cost Proposal:

$$\frac{\text{Lowest Cost of Qualified Cost Proposals}}{\text{Cost for Proposal Being Evaluated}} \times \text{Maximum Cost Points} = \text{Cost Proposal Points}$$

The apparent successful Proposer for the Eastern Division will be identified by the Qualified Proposal having the highest total combined score from Part One and Part Two.

Part Two: The Middle Division Cost Proposals will only be considered for those Technical Proposals that have achieved qualified status in Part One. The Cost Proposal containing the lowest cost will receive the maximum score of thirty (30) points. The proposed cost will be used in the following formula to determine the points a Proposer will receive for the Cost Proposal:

$$\frac{\text{Lowest Cost of Qualified Cost Proposals}}{\text{Cost for Proposal Being Evaluated}} \times \text{Maximum Cost Points} = \text{Cost Proposal Points}$$

The apparent successful Proposer for the Middle Division will be identified by the Qualified Proposal having the highest total combined score from Part One and Part Two.

Part Two: The Western Division Cost Proposals will only be considered for those Technical Proposals that have achieved qualified status in Part One. The Cost Proposal containing the lowest cost will receive the maximum score of thirty (30) points. The proposed cost will be used in the following formula to determine the points a Proposer will receive for the Cost Proposal:

$$\frac{\text{Lowest Cost of Qualified Cost Proposals}}{\text{Cost for Proposal Being Evaluated}} \times \text{Maximum Cost Points} = \text{Cost Proposal Points}$$

The apparent successful Proposer for the Western Division will be identified by the Qualified Proposal having the highest total combined score from Part One and Part Two.

| EVALUATION CATEGORY | MAXIMUM POINTS POSSIBLE |
|---|-------------------------|
| General Qualifications & Experience (refer to RFP Attachment 6.2., Section B) | 15 |
| Technical Qualifications, Experience & Approach (refer to RFP Attachment 6.2., Section C) | 55 |
| Cost Proposal (refer to RFP Attachment 6.3.) | 30 |

5.2. Evaluation Process

The proposal evaluation process is designed to award the contract resulting from this RFP not necessarily to the Proposer offering the lowest cost, but rather to the responsive and responsible Proposer offering the best combination of attributes based upon the evaluation criteria. (“Responsive Proposer” is defined as a Proposer that has submitted a proposal that conforms in all material respects to the RFP. “Responsible Proposer” is defined as a Proposer that has the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.)

5.2.1. **Technical Proposal Evaluation.** The RFP Coordinator and the Proposal Evaluation Team (consisting of three or more State employees) will use the RFP Attachment 6.2., Technical Proposal & Evaluation Guide to manage the Technical Proposal Evaluation and maintain evaluation records.

- 5.2.1.1. The State reserves the right, at its sole discretion, to request Proposer clarification of a Technical Proposal or to conduct clarification discussions with any or all Proposers. Any such clarification or discussion will be limited to specific sections of the proposal identified by the State. The subject Proposer must put any resulting clarification in writing as may be required and in accordance with any deadline imposed by the State.
- 5.2.1.2. The RFP Coordinator will review each Technical Proposal to determine compliance with RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section A—Mandatory Requirements. If the RFP Coordinator determines that a proposal may have failed to meet one or more of the mandatory requirements, the Proposal Evaluation Team will review the proposal and document the team’s determination of whether:
 - a. the proposal adequately meets requirements for further evaluation;
 - b. the State will request clarifications or corrections for consideration prior to further evaluation; or,
 - c. the State will determine the proposal non-responsive to the RFP and reject it.
- 5.2.1.3. Proposal Evaluation Team members will independently evaluate each Technical Proposal (that appears responsive to the RFP) against the evaluation criteria in this RFP, rather than against other proposals and will score each in accordance with the RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section B and Section C.
- 5.2.1.4. For each proposal evaluated, the RFP Coordinator will calculate the average of the Proposal Evaluation Team member scores for RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section B and for Section C, and record each average as the proposal score for the respective Technical Proposal section.
- 5.2.1.5. Before Cost Proposals are opened, the Proposal Evaluation Team will review the Technical Proposal Evaluation record and any other available information pertinent to whether or not each Proposer is responsive and responsible. If the Proposal Evaluation Team identifies any Proposer that appears not to meet the responsive and

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responsible thresholds such that the team would not recommend the Proposer for Cost Proposal Evaluation and potential contract award, the team members will fully document the determination.

- 5.2.2. **Cost Proposal Evaluation.** The RFP Coordinator will open for evaluation the Cost Proposal of each apparently responsive and responsible Proposer that the Proposal Evaluation Team has effectively recommended for potential contract award and will calculate and record each Cost Proposal score in accordance with the RFP Attachment 6.3., Cost Proposal & Scoring Guide.
- 5.2.3. **Total Proposal Score.** The RFP Coordinator will calculate the sum of the Technical Proposal section scores and the Cost Proposal score and record the resulting number as the total score for the subject Proposal (refer to RFP Attachment 6.6., Proposal Score Summary Matrix).

5.3. **Contract Award Process**

- 5.3.1 The RFP Coordinator will submit the Proposal Evaluation Team determinations and proposal scores to the head of the contracting agency for consideration along with any other relevant information that might be available and pertinent to contract award.
- 5.3.2. The contracting agency head will determine the apparent best-evaluated proposal. (To effect a contract award to a Proposer other than the one receiving the highest evaluation process score, the head of the contracting agency must provide written justification and obtain the written approval of the Commissioner of Finance and Administration and the Comptroller of the Treasury.)
- 5.3.3. The State reserves the right to make an award without further discussion of any proposal.
- 5.3.4. The State will issue an Evaluation Notice identifying the apparent best-evaluated proposal and make the RFP files available for public inspection at the time and date specified in the RFP Section 2, Schedule of Events.

NOTICE: The Evaluation Notice shall not create rights, interests, or claims of entitlement in either the Proposer with apparent best-evaluated proposal or any other Proposer.

- 5.3.5. The Proposer identified as offering the apparent best-evaluated proposal must sign a contract drawn by the State pursuant to this RFP. The contract shall be substantially the same as the RFP Attachment 6.7., *Pro Forma* Contract. The Proposer must sign said contract no later than the Contract Signature by Contractor Deadline detailed in the RFP Section 2, Schedule of Events. If the Proposer fails to provide the signed contract by the deadline, the State may determine that the Proposer is non-responsive to this RFP and reject the proposal.
- 5.3.6. Notwithstanding the foregoing, the State may, at its sole discretion, entertain limited negotiation prior to contract signing and, as a result, revise the *pro forma* contract terms and conditions or performance requirements in the State's best interests, PROVIDED THAT such revision of terms and conditions or performance requirements shall NOT materially affect the basis of proposal evaluations or negatively impact the competitive nature of the RFP and contractor selection process.
- 5.3.7. If the State determines that a proposal is non-responsive and rejects it after opening Cost Proposals, the RFP Coordinator will re-calculate scores for each remaining responsive Cost Proposal to determine (or re-determine) the apparent best-evaluated proposal.

PROPOSAL STATEMENT OF CERTIFICATIONS AND ASSURANCES

The Proposer must sign and complete the Proposal Statement of Certifications and Assurances below as required, and it must be included in the Technical Proposal (as required by RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section A, Item A.1.).

The Proposer does, hereby, expressly affirm, declare, confirm, certify, and assure ALL of the following:

1. The Proposer will comply with all of the provisions and requirements of the RFP.
2. The Proposer will provide all services as defined in the Scope of Services of the RFP Attachment 6.7., *Pro Forma* Contract for the total contract period.
3. The Proposer accepts and agrees to all terms and conditions set out in the RFP Attachment 6.7., *Pro Forma* Contract. .
4. The Proposer acknowledges and agrees that a contract resulting from the RFP shall incorporate, by reference, all proposal responses as a part of the contract.
5. The Proposer will comply with:
 - (a) the laws of the State of Tennessee;
 - (b) Title VI of the federal Civil Rights Act of 1964;
 - (c) Title IX of the federal Education Amendments Act of 1972;
 - (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
 - (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
6. To the knowledge of the undersigned, the information detailed within the proposal submitted in response to the RFP is accurate.
7. The proposal submitted in response to the RFP was independently prepared, without collusion, under penalty of perjury.
8. No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Proposer in connection with the RFP or any resulting contract.
9. Both the Technical Proposal and the Cost Proposal(s) submitted in response to the RFP shall remain valid for at least 160 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the RFP.

By signing this Proposal Statement of Certifications and Assurances, below, the signatory also certifies legal authority to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If the signatory is not the Proposer (if an individual) or the Proposer's company *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to bind the proposing entity.

DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO BIND THE PROPOSING ENTITY

SIGNATURE:

PRINTED NAME & TITLE:

DATE:

PROPOSER LEGAL ENTITY NAME:

PROPOSER FEDERAL EMPLOYER IDENTIFICATION NUMBER (or SSN):

TECHNICAL PROPOSAL & EVALUATION GUIDE

SECTION A: General Business Requirements. The Proposer must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Proposer must also detail the proposal page number for each item in the appropriate space below.

The RFP Coordinator will review the proposal to determine if the General Business Requirement Items are addressed as required and mark each with pass or fail. For each item that is not addressed as required, the Proposal Evaluation Team must review the proposal and attach a written determination. In addition to the General Business Requirement Items, the RFP Coordinator will review each proposal for compliance with all RFP requirements.

| PROPOSER LEGAL ENTITY NAME: | | | |
|---|------------------|---|------------------|
| Proposal Page # (Proposer completes) | Item Ref. | Section A— General Business Requirements | Pass/Fail |
| | | The Proposal must be delivered to the State no later than the Proposal Deadline specified in the RFP Section 2, Schedule of Events. | |
| | | The Technical Proposal and the Cost Proposal(s) documentation must be packaged separately as required (refer to RFP Section 3.2., <i>et. seq.</i>). | |
| | | The Technical Proposal must NOT contain cost or pricing information of any type.. | |
| | | The Technical Proposal does NOT contain any restrictions of the rights of the State or other qualification of the proposal. | |
| | | A Proposer did NOT submit alternate proposals for any one Contract. | |
| | | A Proposer did NOT submit multiple proposals, for any one Contract, in different forms (as a prime and a subcontractor). | |
| | A.1. | <u>Statement of Certifications and Assurances:</u> Provide the Proposal Statement of Certifications and Assurances (RFP Attachment 6.1.) completed and signed by an individual empowered to bind the Proposer to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification. | |
| | A.2. | <u>Conflict of Interest:</u> Provide a statement, based upon reasonable inquiry, of whether the Proposer or any individual who shall perform work under the contract has a possible conflict of interest (e.g., employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award. | |
| | A.3. | <u>Bank Reference:</u> Provide a current bank reference indicating that the Proposer's business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months of the RFP Issue Date. | |

| | | | |
|--|----------------------|---|------------------|
| PROPOSER LEGAL ENTITY NAME: | | | |
| Proposal Page # (Proposer completes) | Item Ref. | Section A— General Business Requirements | Pass/Fail |
| | A.4. | <u>Credit References:</u> Provide two current positive credit references from vendors with which the Proposer has done business written in the form of standard business letters, signed, and dated within the past three (3) months of the RFP Issue Date. | |
| | A.5. | <u>Insurance:</u> Provide a letter or Certificate of Insurance from a Class A rated agency stating the Proposer's capability to provide insurance for this Project in accordance with the requirements as specified in the Terms and Conditions of the contract. | |
| | A.6. | <u>Proposal Package Cover Sheet:</u> The outermost container displays Proposer Name, Address, and Grand Division(s) checked to identify which Proposer intends to propose on.(Refer to RFP Attachment 6.4.). | |
| | A.7. | <u>Managing Office Location:</u> Provide the established managing office location for each Grand Division the Proposer is submitting a proposal on. For each office location, provide the office street address, city, and state (a PO Box address is not sufficient) and the year the office was opened. If the office was opened in 2013, the month and day must also be provided. See RFP Attachment 6.7 pro forma Contract Section A.5 for details regarding this requirement. | |
| <i>State Use – RFP Coordinator Signature, Printed Name & Date:</i> | | | |

TECHNICAL PROPOSAL & EVALUATION GUIDE

SECTION B: GENERAL QUALIFICATIONS & EXPERIENCE. The Proposer must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Proposer must also detail the proposal page number for each item in the appropriate space below. Proposal Evaluation Team members will independently evaluate and assign one score for all responses to Section B— General Qualifications & Experience Items.

| | | |
|---|------------------|---|
| PROPOSER LEGAL ENTITY NAME: | | |
| Proposal Page # (Proposer completes) | Item Ref. | Section B— General Qualifications & Experience Items |
| | B.1. | Detail the name, e-mail address, mailing address, telephone number, and facsimile number of the person the State should contact regarding the proposal. |
| | B.2. | Describe the Proposer's form of business (<i>i.e.</i> , individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company) and business location (physical location or domicile). |
| | B.3. | Detail the number of years the Proposer has been in business as a Title Agent or Title Company. Detail the number of years the Proposer has been in business under its present business name. If applicable, list any former names under which your organization has operated. |
| | B.4. | Briefly describe how long the Proposer has been performing the title and closing services. |
| | B.5. | Briefly provide size of firm by office or branch, if applicable, including, number of principals/states, number of office personnel, and number of field personnel by skill set. If subcontractors are listed in the proposal, provide the same information for the office of each subcontractor. |
| | B.6. | List trade categories in which your organization is legally qualified to do business, and include registration or license numbers, if applicable. |
| | B.7. | Discuss how you typically handle closings- in person or by mail. Describe your experience with in person and by mail closings and any analysis you perform to determine whether a closing should be in person or by mail. |
| | B.8. | Provide documentation of the Proposer's commitment to diversity as represented by its business strategy, business relationships, and workforce. NOTE: Proposers that demonstrate a commitment to diversity will advance State efforts to expand opportunity to do business with the State. Proposal evaluations will recognize the positive qualifications and experience of a Proposer that offers a diverse workforce to meet service needs. |
| | B.9. | Provide a statement of whether there have been any mergers, acquisitions, or sales of the Proposer's company within the last ten years. If so, include an explanation providing relevant details. |
| | B.10. | Provide a statement of whether the Proposer or, to the Proposer's knowledge, any of the Proposer's employees, agents, independent contractors, or subcontractors, proposed to provide work on a contract pursuant to this RFP, have been convicted of, pled guilty to, or pled <i>nolo contendere</i> to any felony. If so, include an explanation providing relevant details. |

RFP ATTACHMENT 6.2. — SECTION B (continued)

| PROPOSER LEGAL ENTITY NAME: | | |
|---|-----------|--|
| Proposal Page # (Proposer completes) | Item Ref. | Section B— General Qualifications & Experience Items |
| | B.11. | Provide a statement of whether, in the last ten years, the Proposer has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors. If so, include an explanation providing relevant details. |
| | B.12. | <p>Provide a statement of whether there is any material, pending litigation against the Proposer that the Proposer should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this RFP or is likely to have a material adverse effect on the Proposer's financial condition. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it would impair the Proposer's performance in a contract pursuant to this RFP.</p> <p>NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Proposer must be properly licensed to render such opinions. The State may require the Proposer to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders such opinions.</p> |
| | B.13. | <p>Provide a statement of whether there are any pending or in progress Securities Exchange Commission investigations involving the Proposer. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it will impair the Proposer's performance in a contract pursuant to this RFP.</p> <p>NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Proposer must be properly licensed to render such opinions. The State may require the Proposer to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders such opinions.</p> |
| | B.14. | <p>Provide customer references from individuals (who are <u>not</u> current or former officials or staff of the State of Tennessee) for projects similar to the services sought under this RFP and which represent:</p> <ul style="list-style-type: none"> ▪ two (2) of the larger accounts currently serviced by the Proposer, <u>and</u> ▪ three (3) completed projects. <p>All references must be provided in the form of standard reference questionnaires that have been fully completed by the individual providing the reference as required. The standard reference questionnaire, which <u>must</u> be used and completed as required, is detailed at RFP Attachment 6.5. References that are not completed as required will be considered non-responsive and will not be considered.</p> <p>The Proposer will be <u>solely</u> responsible for obtaining the fully completed reference questionnaires, and for including them within the Proposer's sealed Technical Proposal. In order to obtain and submit the completed reference questionnaires, as required, follow the process detailed below.</p> <p>(a) "Customize" the standard reference questionnaire at RFP Attachment 6.5. by adding the subject Proposer's name, and make exact duplicates for completion by references.</p> <p>(b) Send the customized reference questionnaires to each individual chosen to provide a reference along with a new standard #10 envelope.</p> <p>(c) Instruct the person that will provide a reference for the Proposer to:</p> <ul style="list-style-type: none"> (i) complete the reference questionnaire (on the form provided or prepared, completed, and printed using an exact duplicate of the document); (ii) sign <u>and</u> date the completed, reference questionnaire; (iii) seal the completed, signed, and dated, reference questionnaire within the envelope provided; (iv) sign his or her name in ink across the sealed portion of the envelope; and (v) return the sealed envelope containing the completed reference questionnaire directly to the Proposer (the Proposer may wish to give each reference a deadline, such that the Proposer |

RFP ATTACHMENT 6.2. — SECTION B (continued)

| | | |
|--|----------------------|--|
| PROPOSER LEGAL ENTITY NAME: | | |
| Proposal Page # (Proposer completes) | Item Ref. | Section B— General Qualifications & Experience Items |
| | | <p>will be able to collect all required references in time to include them within the sealed Technical Proposal).</p> <p>(d) <u>Do NOT open the sealed references upon receipt.</u></p> <p>(e) Enclose all <u>sealed</u> reference envelopes within a larger, labeled envelope for inclusion in the Technical Proposal as required.</p> <p>NOTES:</p> <ul style="list-style-type: none"> ▪ The State will not accept late references or references submitted by any means other than that which is described above, and each reference questionnaire submitted must be completed as required. ▪ The State will not review more than the number of required references indicated above. ▪ While the State will base its reference check on the contents of the sealed reference envelopes included in the Technical Proposal package, the State reserves the right to confirm and clarify information detailed in the completed reference questionnaires, and may consider clarification responses in the evaluation of references. <p>The State is under <u>no</u> obligation to clarify any reference information.</p> |
| SCORE (for <u>all</u> Section B—Qualifications & Experience Items above): <i>(maximum possible score = 15)</i> | | |
| <i>State Use – Evaluator Identification:</i> | | |

RFP ATTACHMENT 6.2. — SECTION C

TECHNICAL PROPOSAL & EVALUATION GUIDE

SECTION C: TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH. The Proposer should explain its approach to provide services to the State. The items listed below represent specific questions the State would request you answer in your explanation. For ease of review, please annotate your explanation so that it contains references to the items listed below where they are addressed. The Proposer should not feel constrained to answer only the specific questions listed below in its explanation and should feel free to provide attachments if necessary.

A Proposal Evaluation Team will be made up of three (3) or more State employees. Each evaluator will rank the Proposer on each category, which will then be totaled by the RFP Coordinator. The Evaluation Score Being Evaluated will be divided by the Highest Evaluation Score, and then multiplied by the maximum possible score for Section C.

| | | |
|--|----------------------|--|
| PROPOSER LEGAL ENTITY NAME: | | |
| Proposal Page # (Proposer completes) | Item Ref. | Section C— Technical Qualifications, Experience & Approach Items |
| | C.1. | Provide a brief, descriptive statement detailing evidence of the Proposer's ability to deliver the Title and Closing Services sought under this RFP (e.g., prior experience, training, certifications, staffing resources, program and quality management systems, <i>etc.</i>). |
| | C.2. | Provide a narrative that illustrates how the Proposer will manage each title order, ensure completion of the scope of services, and accomplish required objectives within the State's schedule, typically closing within ninety (90) days of title order. |
| | C.3. | Provide a narrative description of the proposed service team, its members, and organizational structure along with an organizational chart identifying the key people who will be assigned to accomplish the work required by this RFP, illustrating the lines of authority. Describe your approach to handling large volumes of work in a timely manner and what other resources are available to support the dedicated service team. If you don't intend to have an established office or a subcontractor with an established office in a Grand Division, explain how you intend to provide services in said Grand Division. |
| | C.4. | Continuous Improvement Process – Describe how customer feedback is received and analyzed. Describe your customer satisfaction survey approach or tools and how satisfaction deficiencies are elevated, addressed and resolved. If you do not have a continuous improvement process in place, please so state. |
| | C.5. | Describe how the State would benefit from your company's Real Estate Title and Closing Services and expertise. Please provide other information that you think the State should consider in evaluating this proposal. |
| SCORE (for <u>all</u> Section C—Qualifications & Experience Items above): (maximum possible score = 55): | | |
| State Use – Evaluator Identification: | | |
| State Use – RFP Coordinator Signature, Printed Name & Date: | | |

COST PROPOSAL & SCORING GUIDE

For

Eastern Grand Division: _____

Middle Grand Division: _____

Western Grand Division: _____

NOTICE: THIS COST PROPOSAL MUST BE COMPLETED EXACTLY AS REQUIRED

COST PROPOSAL SCHEDULE— The Cost Proposal, detailed below, shall indicate the proposed price for the entire scope of service including all services defined in the Scope of Services of the RFP Attachment 6.7., *Pro Forma* Contract, for the entire contract period. The Cost Proposal shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract resulting from this RFP. All monetary amounts shall be in U.S. currency and limited to two (2) places to the right of the decimal point.

NOTICE: The Evaluation Factor associated with each cost item is for evaluation purposes only. The evaluation factors DO NOT and SHOULD NOT be construed as any type of volume guarantee or minimum purchase quantity. The evaluation factors SHALL NOT create rights, interests, or claims of entitlement in the Proposer.

Notwithstanding the cost items herein, pursuant to the second paragraph of the *Pro Forma* Contract section C.1. (refer to RFP Attachment 6.7.), "The State is under no obligation to request work from the contractor in any specific dollar amounts or to request any work at all from the contractor during any period of this contract."

This Cost Proposal must be signed, in the space below, by an individual empowered to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If said individual is not the *President* or *Chief Executive Officer*, this document must have attached to it evidence showing the individual's authority to legally bind the proposing entity.

| PROPOSER SIGNATURE: | | | |
|--|---------------|-------------------|------------------------------------|
| PRINTED NAME & TITLE: | | | |
| DATE: | | | |
| PROPOSER LEGAL ENTITY NAME: | | | |
| Cost Item Description | Proposed Cost | State Use Only | |
| | | Evaluation Factor | Evaluation Cost (cost x factor) |
| 1. Thirty Year Chain of Title History and Title Commitment | \$ | 13 | |
| 2. Title Policy | \$ | 0 | |
| 3. Closing Services | \$ | 13 | |
| 4. Court Appearance of 4 Hours or Less in One Day | \$ | 1 | |
| 5. Court Appearance of More Than 4 Hours in One Day | \$ | 1 | |
| 6. Pre-Trial Meeting of 4 Hours or Less in One Day | \$ | 1 | |

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| PROPOSER LEGAL ENTITY NAME: | | | |
|--|----------------------|--------------------------|---|
| Cost Item Description | Proposed Cost | State Use Only | |
| | | Evaluation Factor | Evaluation Cost (cost x factor) |
| 7. Pre-Trial Meeting of More Than 4 Hours in One Day | \$ | 1 | |
| EVALUATION COST AMOUNT (sum of evaluation costs above): The RFP Coordinator will use this sum and the formula below to calculate the Cost Proposal Score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations. | | | |
| $\frac{\text{lowest evaluation cost amount from all proposals}}{\text{evaluation cost amount being evaluated}} \times 30 \text{ (maximum section score)} = \text{SCORE:}$ | | | |
| <i>State Use – RFP Coordinator Signature, Printed Name & Date:</i> | | | |

PROPOSAL PACKAGE COVER SHEET
RFP NUMBER: 32107-007.13

Real Estate Title and Closing Services

(please check the appropriate box or boxes below to indicate which Grand Division you are proposing on)

Eastern _____

Middle _____

Western _____

**Proposer
Identification:**

Proposer _____

Address _____

REFERENCE QUESTIONNAIRE

The standard reference questionnaire provided on the following pages of this attachment MUST be completed by all individuals offering a reference for the Proposer.

The Proposer will be solely responsible for obtaining completed reference questionnaires as required (refer to RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section B, Item B.14.), and for enclosing the sealed reference envelopes within the Proposer's Technical Proposal.

RFP # NUMBER PROPOSAL REFERENCE QUESTIONNAIRE

REFERENCE SUBJECT: PROPOSER NAME (completed by proposer before reference is requested)

The "reference subject" specified above, intends to submit a proposal to the State of Tennessee in response to the Request for Proposals (RFP) indicated. As a part of such proposal, the reference subject must include a number of completed and sealed reference questionnaires (using this form).

Each individual responding to this reference questionnaire is asked to follow these instructions:

- complete this questionnaire (either using the form provided or an exact duplicate of this document);
 - sign and date the completed questionnaire;
 - seal the completed, signed, and dated questionnaire in a new standard #10 envelope;
 - sign in ink across the sealed portion of the envelope; and
 - return the sealed envelope containing the completed questionnaire directly to the reference subject.
-

(1) What is the name of the individual, company, organization, or entity responding to this reference questionnaire?

(2) Please provide the following information about the individual completing this reference questionnaire on behalf of the above-named individual, company, organization, or entity.

| | |
|------------------------|--|
| NAME: | |
| TITLE: | |
| TELEPHONE # | |
| E-MAIL ADDRESS: | |

(3) What services does /did the reference subject provide to your company or organization?

(4) What is the level of your overall satisfaction with the reference subject as a vendor of the services described above?

Please respond by circling the appropriate number on the scale below.

| | | | | | | |
|-----------------|----------|----------|----------|----------|----------|----------------|
| | 1 | 2 | 3 | 4 | 5 | |
| least satisfied | | | | | | most satisfied |

If you circled 3 or less above, what could the reference subject have done to improve that rating?

- (5) If the services that the reference subject provided to your company or organization are completed, were the services completed in compliance with the terms of the contract, on time, and within budget? If not, please explain.
- (6) If the reference subject is still providing services to your company or organization, are these services being provided in compliance with the terms of the contract, on time, and within budget? If not, please explain.
- (7) How satisfied are you with the reference subject's ability to perform based on your expectations and according to the contractual arrangements?
- (8) In what areas of service delivery does /did the reference subject excel?
- (9) In what areas of service delivery does /did the reference subject fall short?
- (10) What is the level of your satisfaction with the reference subject's project management structures, processes, and personnel?

Please respond by circling the appropriate number on the scale below.

| | | | | | | |
|-----------------|----------|----------|----------|----------|----------|----------------|
| | 1 | 2 | 3 | 4 | 5 | |
| least satisfied | | | | | | most satisfied |

What, if any, comments do you have regarding the score selected above?

- (11) Considering the staff assigned by the reference subject to deliver the services described in response to question 3 above, how satisfied are you with the technical abilities, professionalism, and interpersonal skills of the individuals assigned?

Please respond by circling the appropriate number on the scale below.

| | | | | | | |
|-----------------|----------|----------|----------|----------|----------|----------------|
| | 1 | 2 | 3 | 4 | 5 | |
| least satisfied | | | | | | most satisfied |

What, if any, comments do you have regarding the score selected above?

- (12) Would you contract again with the reference subject for the same or similar services?

Please respond by circling the appropriate number on the scale below.

| | | | | | | |
|-----------------|----------|----------|----------|----------|----------|----------------|
| | 1 | 2 | 3 | 4 | 5 | |
| least satisfied | | | | | | most satisfied |

What, if any, comments do you have regarding the score selected above?

REFERENCE SIGNATURE:

(by the individual completing this
request for reference information)

(must be the same as the signature across the envelope seal)

DATE:

PROPOSAL SCORE SUMMARY MATRIX

| | | | | | | |
|--|----------------------|--|----------------------|--|----------------------|--|
| | <i>PROPOSER NAME</i> | | <i>PROPOSER NAME</i> | | <i>PROPOSER NAME</i> | |
| GENERAL QUALIFICATIONS & EXPERIENCE (maximum: 15) | | | | | | |
| <i>EVALUATOR NUMBER</i> | | | | | | |
| <i>EVALUATOR NUMBER</i> | | | | | | |
| <i>REPEAT AS NECESSARY</i> | | | | | | |
| | AVERAGE: | | AVERAGE: | | AVERAGE: | |
| TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH (maximum: 55) | | | | | | |
| <i>EVALUATOR NUMBER</i> | | | | | | |
| <i>EVALUATOR NUMBER</i> | | | | | | |
| <i>REPEAT AS NECESSARY</i> | | | | | | |
| | AVERAGE: | | AVERAGE: | | AVERAGE: | |
| Total Technical (must be a min of 49 total points for cost proposal to be opened) | | | | | | |
| COST PROPOSAL (maximum: 30) | SCORE: | | SCORE: | | SCORE: | |
| TOTAL PROPOSAL EVALUATION SCORE: (maximum: 100) | | | | | | |
| RFP Coordinator Signature, Printed Name & Date: | | | | | | |

RFP 32107- 007.13 PRO FORMA CONTRACT

The *Pro Forma* Contract detailed in following pages of this exhibit contains some “blanks” (signified by descriptions in capital letters) that will be completed with appropriate information in the final contract resulting from the RFP.

6.7. Pro Forma Master Contract and Contract Attachments

Attachment One: Attestation Re Personnel Used in Contract Performance

CONTRACT
BETWEEN THE STATE OF TENNESSEE,
Department of General Services
AND
CONTRACTOR NAME

This Contract, by and between the State of Tennessee, **Department of General Services**, hereinafter referred to as the "State" and **Contractor Legal Entity Name**, hereinafter referred to as the "Contractor," is for the provision of **Real Estate Title and Closing Services**, as further defined in the "SCOPE OF SERVICES."

The Contractor is **a/an Individual, For-Profit Corporation, Non-Profit Corporation, Special Purpose Corporation Or Association, Partnership, Joint Venture, Or Limited Liability Company.**

Contractor Place of Incorporation or Organization: **Location**

Contractor Edison Registration ID # **Number**

A. SCOPE OF SERVICES:

- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.
- A.2. Issuance of Title Commitment: This service shall include title commitment binder, containing copies of all exceptions listed in said binder, as well as a thirty year chain of title report (collectively, a "Title Commitment"). For Title Commitments containing more than five (5) exceptions, each exception document shall be delivered to the State in a separate pdf. Should a property have more than one title chain, it will constitute only one title report. The only permissible exceptions to the Title Commitment binder will be for unrecorded instruments and such facts that would not be disclosed by a search of the records, an accurate survey and inspection of the premises. One copy of the Title Commitment to be delivered to the State via email on or before thirty (30) calendar days after request; provided however, that for searches in Knox, Hamilton, Davidson, Montgomery, Robertson, Williamson, Madison, and Shelby counties delivery of the Title Commitment shall occur within twenty (20) calendar days after the request.
- A.3. Title Insurance: This shall consist of the issuance of a policy of title insurance, in the form of a marked commitment provided by the State (the "Title Policy"). The Title Policy shall include the amount that represents the total sum paid for the acquisition of the property. Issuance cost for the Title Policy will be based on the rates filed with the Tennessee Department of Commerce and Insurance. One (1) original and one (1) copy of the Title Policy are to be delivered to the State with the recorded instrument of conveyance. No more than forty percent (40%) of the Title Policies shall be written with any one (1) company.
- A.4. Closing Negotiated Transactions: Closing Services shall include the updating of Title Commitment binders to the time of execution of the instrument of conveyance, the preparation of the deed, resolution of title acquisition/disposition situations, working with State agents to correct any errors or title problems, and the arrangement for and making of such disbursements, as necessary to cause the removal of all liens and encumbrances. The following are requirements for providing Closing Services:
 - a. A licensed attorney, with experience in real property law, must be available to discuss title/acquisition situations with all of the State's staff.
 - b. The Contractor shall discuss the time and location for each proposed closing with prospective grantor(s), and within reason, accomplish the same in accordance with their request. The closing attorney, or closing agent, shall notify the Office of Real Estate Asset Management, in writing, of the time, date, and place for closing. Such notice to be received no later than five (5) calendar days in advance.
 - c. For the preparation of the instrument of conveyance by the Contractor, the State will provide the description and special provisions, if any. The consideration for the transfer must be set out in the body of the deed. The deed must be completed, and one copy submitted to the State via email, on or before fifteen (15) days prior to closing.

Acceptance of the deed will be subject to approval by the Office of the Attorney General and Reporter.

- d. All property shall be conveyed by warranty deed to the State, except as specifically agreed by the State. The service shall include obtaining property tax proration amount, and, if possible, a receipt for payment of pro-rated amount and any prior years taxes. The receipt shall be furnished to the State with the closing statement.
- e. Within 24 hours following the closing, the closing attorney, or closing agent, shall notify the Office of Real Estate Asset Management in writing or by other means that the transaction has been closed. The closing attorney shall be expected to record the deed as soon as practicable, in no instance more than three (3) calendar days following the closing.
- f. The closing statement, recorded deed, all closing documents, and Title Policy must be submitted to the State within thirty (30) calendar days following closing, unless an extension is requested, and granted, in writing.
- g. The Contractor shall issue Forms 1099, a W-9 and any other forms required by Section 6045 of the U. S. Internal Revenue Service to the seller(s) of all property to the State, at the time of the closing on the property. A copy of the issued forms shall be furnished to the State, along with the closing statement.
- h. As needed, the State may require Contractor to make court appearances or attend pre-trial meetings in connection with other services provided by the Contractor to the State pursuant to this Contract.

- A.5. Managing Office. The Contractor shall identify and maintain one office that will be responsible for managing the services described herein. Services may be performed in other Contractor offices or by subcontractors; however, the identified office shall be the single point of contact and coordinate all communication with the State regarding the services in this Grand Division. However, the State reserves the right to contact other entities within the Contractor's organization, if this deemed to be in the State's best interest. The managing office must be empowered to make decisions and provide all required services in a timely manner and must hold all applicable licenses and certifications.

The Contractor may change the managing office with prior written approval from the State, which will not be unreasonably withheld. The Contractor must submit the request to change managing offices in writing to the State at least thirty (30) days prior to the effective date of the change.

- A.6. Service Periods: The State shall initiate and request services for new properties through October 1, 2018. The period commencing October 1, 2018 through the end of the Contract shall only be used to complete previously requested services.

B. CONTRACT PERIOD:

- B.1. This Contract shall be effective for the period beginning February 4, 2014, and ending on February 3, 2019. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.
- B.2. In-Process Work Term Extension. The State reserves the right to extend this Contract for a period beginning at the end of the final term that is in its sole opinion sufficient for the purpose of completing all work activities associated with any authorized work initiated during the contract term(s) of this Contract.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed **Written Dollar Amount (\$Number)**. The payment rates in section C.3 shall constitute the

entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended in accordance with terms of Section D.2. of this Contract.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in section C.1.

- a. The Contractor's compensation shall be contingent upon the satisfactory completion of individual requests for work Agreements described in Section A.
- b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

| Cost Item Description | Proposed Cost |
|---|---------------|
| THIRTY (30) YEAR "CHAIN OF TITLE" HISTORY AND TITLE COMMITMENT | \$ NUMBER |
| TITLE POLICY | \$ NUMBER |
| CLOSING SERVICES | \$ NUMBER |
| Court Appearance of 4 hours or Less in One Day (applicable only as required by the State) | \$ NUMBER |
| Court Appearance of More than 4 Hours in One Day (applicable only as required by the State) | \$NUMBER |
| Pre-Trial Meeting of 4 hours or Less in One Day (applicable only as required by the State) | \$NUMBER |
| Pre-Trial Meeting of More than 4 Hours in One Day (applicable only as required by the State) | \$NUMBER |

c. Original Title Insurance Rates. The Contractor shall submit an invoice for actual charges for original title insurance, at rates on file with the Tennessee Department of Commerce and Insurance. The Contractor shall only be reimbursed in accordance with these rates.

- i. Reissue Credits. The Contractor shall offer the State a premium discount of thirty percent (30%) for reissue credit where the seller to the State presents, prior to closing, a valid prior title insurance policy issued by a title insurance company licensed under T.C.A. 56-35-132.

- ii. All-Inclusive Fees. The Contractor shall be reimbursed for “all-inclusive” premiums only in those counties that charge an “all-inclusive” fee. The Contractor shall provide to the State a copy of the current rates and any changes which may occur for each county where an “all-inclusive” fee is charged.

C.4. Travel Compensation.

- a. The Contractor shall be compensated or reimbursed for travel, meals, or lodging for actual costs ONLY, subject to maximum amounts and limitations specified in the “State Comprehensive Travel Regulations”. Claims may be submitted only for travel as directed by and approved by the Real Estate Compliance Director.

C.5. Invoice for Payment Requirements. The Contractor shall submit an invoice for payment to the State only for completed increments of service and shall present said invoices, with all necessary supporting documentation, for payment to:

Denise Miller
Department of General Services
William Snodgrass Tennessee Tower 24th floor
312 Rosa L. Parks Avenue
Nashville, TN 37243

- a. Each invoice for payment shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly):
 - (1) Invoice for Payment Number (assigned by the Contractor)
 - (2) Invoice for Payment Date
 - (3) Contract Number or State Transaction Number (assigned by the State)
 - (4) Customer Account Name: State of Tennessee, Department of General Services, Division of Real Estate and Asset Management
 - (5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
 - (6) Contractor Name
 - (7) Contractor Edison Registration ID Number Referenced in Preamble of this Contract
 - (8) Contractor Remittance Address
 - (9) Description of Delivered Service
 - (10) Complete Itemization of Charges
 - (11) Complete Itemization of Charges, which shall detail the following:
 - i. Service or Milestone Description (including name & title as applicable) of each service invoiced
 - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced
 - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced
 - iv. Amount Due by Service
 - v. Total Amount Due for the invoice period
- b. The Contractor understands and agrees that an invoice for payment under this Contract shall:
 - (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
 - (2) only be submitted for completed service and shall not include any charge for future work;

- (3) not include sales tax or shipping charges; and
- (4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice for payment, and the invoice for payment meets the minimum requirements of this section C.5.

- C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.
- C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.
- a. The Contractor shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once said form is received by the State, all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH).
 - b. The Contractor shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The taxpayer identification number detailed by said form must agree with the Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID referenced in this Contract.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the State Architect, the Commissioner of the Department of General Services, the Comptroller of the Treasury, and the Attorney General).
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the State Architect, the Commissioner of the Department of General Services, the Comptroller of the Treasury, and the Attorney General).
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least ninety (90) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State; provided, however, that the Contractor may subcontract with title searchers without the prior approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee.

- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of *Tennessee Code Annotated*, Section 12-4-124, *et seq.*, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment One, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.
 - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request.

- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of *Tennessee Code Annotated*, Section 12-4-124, *et seq.* for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.
- D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.10. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401, *et seq.*
- D.11. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.12. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.13. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.14. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.
- D.15. State Liability. The State shall have no liability except as specifically provided in this Contract.

- D.16. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.17. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.18. Governing Law. This Contract and any and all agreements entered into pursuant to this Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.19. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.20. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.21. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

State Contact Name & Title
State Agency Name
Address
Email Address
Telephone # Number
FAX # Number

The Contractor:

Contractor Contact Name & Title
Contractor Name
Address
Email Address

Telephone # Number
FAX # Number

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.
- E.5. .

Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance.

a. The Contractor shall maintain, at minimum, the following insurance coverage:

- (1) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars (\$1,000,000) per occurrence for employers' liability whichever is greater.
- (2) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
- (3) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence.
- (4) Professional Malpractice Liability with a limit of not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) aggregate.

- b. At any time State may require the Contractor to provide a valid Certificate of Insurance detailing Coverage Description; Insurance Company & Policy Number; Exceptions and Exclusions; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability; and Name and Address of Insured. Failure to provide required evidence of insurance coverage shall be a material breach of this Contract.

- E.6. State Ownership of Work Products. The State shall have ownership, right, title, and interest, including ownership of copyright, in all work products, including computer source code, created, designed, developed, derived, documented, installed, or delivered under this Contract subject to the next subsection and subject to full and final payment for each "Work Product." The State shall have royalty-free and unlimited rights and license to use, disclose, reproduce, publish, distribute, modify, maintain, or create derivative works from, for any purpose whatsoever, all said Work Products.
- a. To the extent that the Contractor uses any of its pre-existing, proprietary or independently developed tools, materials or information ("Contractor Materials"), the Contractor shall retain all right, title and interest in and to such Contractor Materials, and the State shall acquire no right, title or interest in or to such Contractor Materials EXCEPT the Contractor grants to the State an unlimited, non-transferable license to use, copy and distribute internally, solely for the State's internal purposes, any Contractor Materials reasonably associated with any Work Product provided under the Contract.
 - b. The Contractor shall furnish such information and data as the State may request, including but not limited to computer code, that is applicable, essential, fundamental, or intrinsic to any Work Product and Contractor Materials reasonably associated with any Work Product, in accordance with this Contract and applicable state law.
 - c. Nothing in this Contract shall prohibit the Contractor's use for its own purposes of the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of providing the services requested under this Contract.
 - d. Nothing in the Contract shall prohibit the Contractor from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Contract.
- E.7. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below.
- a. this Contract document with any attachments or exhibits (excluding the items listed at subsections b. through e., below);
 - b. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
 - c. the State solicitation, as may be amended, requesting proposals in competition for this Contract;
 - d. any technical specifications provided to proposers during the procurement process to award this Contract;
 - e. the Contractor's proposal seeking this Contract.
- E.8. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust

statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

- E.9. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's proposal responding to **RFP 32107-007.13** and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and persons with a disability. Such reports shall be provided to the State of Tennessee Governor's Office of Diversity Business Enterprise in form and substance as required by said office.

- E.10. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by *Tennessee Code Annotated*, Section 8-6-106.

- E.11. Unencumbered Personnel. All persons assigned by the Contractor to perform services for the State under this Contract, whether they are employees, agents, subcontractors, or principals of the Contractor, shall not be subject to any employment contract or restrictive covenant provisions which would preclude those persons from performing the same or similar services for the State after the termination of this Contract, either as a State employee or an independent contractor, or as an employee, agent, subcontractor or principal of another contractor with the State. If the Contractor provides the State with the services of any person subject to a restrictive covenant or contractual provision in violation of this provision, any such restrictive covenant or contractual provision will be void and unenforceable, and the Contractor will pay the State and any person involved all of its expenses, including attorneys fees, caused by attempts to enforce such provisions.
- E.12. Tennessee Department of Revenue Registration. The Contractor shall be registered with the Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this Contract.
- E.13. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.

- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.
- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of this Contract so that both parties will be in compliance with HIPAA.
- c. The State and Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.

E.14. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

- a. No federally appropriated funds have been paid, or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, this Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code.

BY CONTRACTOR:

Signature: _____

Name: _____

Title: _____

AND BY STATE: STATE OF TENNESSEE
Department of General Services

APPROVED: _____
Robert E. Oglesby, Commissioner
Department of General Services

Contract will take effect upon execution and after obtaining all approvals (refer to D.1).

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

| | |
|---|--|
| SUBJECT CONTRACT NUMBER: | |
| CONTRACTOR LEGAL ENTITY NAME: | |
| FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number) | |

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION